

Creating an Administrative Civil Liability

Summary:

Use one record to track the life of an Administrative Civil Liability. Use milestones to note if and when it becomes an order. If the ACL complaint does not become an order, use the date section on the general information tab to record that the ACL has been settled.

Steps

Complaint issued for liability and/or project:

1. Create new regulatory measure, with the type “ACL;”
2. Add ACL Complaint Issued date to the General Info tab of the enforcement action;
3. Add effective date of complaint
4. Make sure the Regional Board and a staff person are related to the regulatory measure as well as a discharger and place
5. Link the appropriate violations;
6. Upload electronic version of enforcement complaint to Enforcement Tab;
7. Create project and liabilities
 - a. If ACL only specifies a liability or gives the option of both a project and liability, create a Liability
 - b. If ACL only specifies a project, create a Project
 - c. If ACL specifies both, create both a Project and a Liability
8. Link the party (organization) who is responsible for paying the liability or undertaking the project.
9. If any part of the ACL addresses an MMP, check the “addresses an MMP” box within the Project and/or Liability, as appropriate;
10. Enter a simple name for this Liability/Project record (\$5000 Liability, Stream Restoration Project, etc.)
11. For liabilities, select only “State mandated” for Type. For Projects, select the most applicable

Supplemental Environmental Project	A project that enhances the beneficial uses of the waters of the State, provides a benefit to the public at large, and, at the time it is included in an ACL action, is not otherwise required of the discharger. A SEP should directly benefit or study ground water or surface water quality or quantity, and the beneficial uses of waters of the State.
Other Project with No \$Assessment	Other projects that do not offset liability or penalty amounts.
Compliance Project –	A project that is designed to address problems related to the violation and bring the discharger back into compliance in a timely manner.
Pollution Prevention Project	A project designed to reduce pollution pursuant to CWC Section 13263.3.

12. Enter a brief description of the Liability/Project, if necessary
 13. Enter the status of the Liability/Project
- Deleted – Do not use

Fulfilled – Project/Liability is completed

Not Fulfilled – Project/Liability is not completed; due

Superseded – If a project is not completed, it is superseded by a liability

Waived – Do not use

14. Ignore Planned/Actual Dates

15. Ignore Total Assessment(\$)

16. Add milestone of Initial ACLC Liability with the amount assessed in the Milestone Amount field and the date the discharger must respond by in the “Planned End Date” field. For projects, this amount should include contingent project amounts (i.e. the amount a project is worth). If the amounts are split between funds, an initial assessment milestone must be created for each of the corresponding code sections;

17. Create/update liability and project milestones as these change through resolution of the ACL. Do not alter the Initial ACLC Liability – this initial amount must be retained for reporting purposes.

A. If complaint is settled:

1. Add “Hearing Waived/ACL Settled” date to the General Info tab of the enforcement action;
2. Ensure liability and project milestones are updated, if appropriate. Do not alter the Initial ACLC Liability – this initial amount must be retained for reporting purposes. If the liability amount changes, change the status of the Initial ACLC Liability milestone to “superseded” and add new ACLC Liability/Project milestone(s), as appropriate
3. When appropriate payment is received by DAS, DAS staff inputs amount paid. If the payment is fully paid, DAS will change the milestone status to “completed” DAS promptly notifies staff associated to regulatory measures of the payment. RB staff changes the liability to fulfilled.
4. If there is a partial payment, DAS will clarify with RB staff that there were not other agreements.
 - i. If not, DAS staff will enter partial payment amount and re-invoice. They enter the date received in the actual end date field, but do not change the status. When the full payment is received by DAS, the additional amount is entered and they change the milestone status to “completed.” The regional board staff is notified and RB staff change the liability to fulfilled.
 - ii. If there were, RB staff creates appropriate milestones. In the case of the Order allowing either a project or a liability, and the partial payment is for only the non-negotiable liability portion, the RB staff must create a project and enter a project milestone.
5. Once all liabilities are paid and projects are completed, regional board changes status of regulatory measure to “historic;”

B. If complaint turns into an order:

1. Add “Adoption/Issuance” date to the General Info tab of the enforcement action.
2. Change “Effective Date” to the effective date of the Board Order.
3. If a new order number is issued, create an identifier of ACL complaint number and enter the original with the issuance data as the start date and the day before order adoption date as the end date. Enter the new order number in the order number field.
4. Ensure liability and project milestones are updated. Do not alter the Initial ACLC Liability amount – this initial amount must be retained for reporting purposes. If liability amount

changes, change the status of the Initial ACLC Liability milestone to “superseded” and add ACLO Liability/Project milestones, as appropriate. If the Initial ACLC Liability is upheld, then no changes are necessary.

5. Upload electronic version of enforcement order to Enforcement Tab.
6. DAS monitors CIWQS for payments that are due, that is, when orders have been adopted that involve assessments. When found, DAS uses the mailing address of the related party(ies) with the relationship of “Discharger” to send out an invoice.
7. When appropriate payment is received by DAS, DAS staff inputs amount paid, changes milestone status to “completed.” DAS promptly notifies staff associated to regulatory measures of the payment.
6. If there is a partial payment, DAS will clarify with RB staff that there were not other agreements.
 - i. If not, DAS staff will enter partial payment amount and re-invoice. They enter the date received in the actual end date field, but do not change the status. When the full payment is received by DAS, the additional amount is entered and they change the milestone status to “completed.” The regional board staff is notified and RB staff change the liability to fulfilled.
 - ii. If there were, RB staff creates appropriate milestones. In the case of the Order allowing either a project or a liability, and the partial payment is for only the non-negotiable liability portion, the RB staff must create a project and enter a project milestone.
7. Once all liabilities are paid and projects are completed, regional board changes status of regulatory measure to “historic”.

C. If order is petitioned:

1. Regional board staff changes milestone status to “pending”
2. Regional board staff notifies DAS (receipts_unit@waterboards.ca.gov) of the petition
3. Once resolved, order is either withdrawn and milestones are “not due” or order is upheld and milestones are “due”.

Other Considerations

If the enforcement action record is created through copying, make sure there is no billing information on the Additional Information tab.